

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Ruben Puello-Savinon,
Petitioner

v.

Civil No. 09-cv-256-SM

United States of America,
Respondent

O R D E R

The petition for sentence relief under 28 U.S.C. § 2255 is necessarily denied. First, the petition is untimely. The amended judgement in this case was entered on August 13, 2007. No appeal was taken, and on August 27, 2007, judgment became final. A petition under Section 2255 had to be filed within one year after the judgment became final, 28 U.S.C. § 2255(f)(1). This petition was not filed until July 25, 2009 (the date it was signed and presumably delivered to prison authorities for mailing). In any event, petitioner argues that the decision in Booker v. United States, 543 U.S. 220 (2005) should apply to his case, and a sentence reduction ordered. In fact petitioner's first appeal to the United States Court of Appeals for the First Circuit was pending when Booker was decided, and, because this court had indicated that a lesser sentence would have been imposed but for the mandatory nature of the Guidelines, his case was remanded for application of Booker, which was done, and his

sentence was reduced from 168 months to 144 months. So, petitioner has already received the relief he seeks in the petition.

The petition is dismissed as untimely.

SO ORDERED.


Steven J. McAuliffe
Chief Judge

August 3, 2009

cc: Ruben Puello-Savinon, pro se